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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,973

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Mats Dahlback

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40698

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MICHAUD-DUFFY GROUP LLP

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SUITE 206

MIDDLETOWN, CT 06457

EXAMINER

ZHU, WEIPING

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

01/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/538,973

**Applicant(s)**

DAHLBACK, MATS

**Examiner**

WEIPING ZHU

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-21, 23 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-21, 23 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 18-21, 23 and 31 are currently under examination, wherein claims 18 and 31 have been amended in applicant's amendment filed on November 13, 2008.

### ***Status of Previous Rejections***

2. The previous rejections of claims 18-21, 23 and 31 under 35 U.S.C. 103(a) as stated in the Office action dated August 19, 2008 have been maintained.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-21, 23 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlback (US 6,149,738) in view of Garzarolli et al. (US 6,167,104) as stated in the Office action dated August 19, 2008.

With respect to the amended feature in the instant claims 18 and 31 that the claimed stretching and the claimed heat treatment during step c) are carried out in a continuous oven process, Dahlback ('738) discloses heat treating and flattening the sheet in a temperature range of 600-800° C (i.e. the  $\alpha$ -phase temperature range of the alloy) in a continuous furnace (col. 4, lines 53-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to flat the sheet of Dahlback ('738) in a continuous furnace by stretching the sheet by at least 0.3% in a direction

corresponding to a longitudinal direction of a component for which the sheet is intended during the heat treatment as disclosed by Garzarolli et al. ('104) in order to generate internal stress in the sheet as discussed by Garzarolli et al. ('104) (col. 4, lines 32-35).

With respect to the amended feature in the instant claim 31 that the claimed sheet is used in a fuel assembly for a boiling water reactor, it is noted that the ground of rejection for the claim limitation of the type of the water reactor relies on the teaching of Dahlback ('738) rather than that of Garzarolli et al. ('104).

#### ***Response to Arguments***

4. The applicant's arguments filed on November 13, 2008 have been fully considered but they are not persuasive.

First, the applicant argues that neither Dahlback ('738) nor Garzarolli et al. ('104) discloses, teaches, or suggests carrying out the stretching and heat treatment in a continuous oven process as claimed in the instant claims 18 and 31 as amended. In response, see the reason for the rejection of the amended features in the instant claims 18 and 31 as stated in the paragraph above. Dahlback ('738) in view of Garzarolli et al. ('104) renders the claimed feature obvious to one of ordinary skill in the art.

Second, the applicant argues that the combination of Dahlback ('738) and Garzarolli et al. ('104) is not proper, because they are concerned with different types of water reactors. In response, the examiner notes that both Dahlback ('738) and Garzarolli et al. ('104) are concerned with the components used in nuclear reactors. Garzarolli et al. ('104) is only relied upon to establish the ground of the rejection of the claimed feature of stretching the sheet. As stated in the paragraph 3 above, it would

have been obvious to one of ordinary skill in the art at the time the invention was made to flat the sheet of Dahlback ('738) by stretching the sheet as disclosed by Garzarolli et al. ('104). The combination of Dahlback ('738) and Garzarolli et al. ('104) with an appropriate motivation as stated in the paragraph 3 above is proper and maintained.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Weiping Zhu whose telephone number is 571-272-6725. The examiner can normally be reached on 8:30-16:30 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy King/  
Supervisory Patent Examiner, Art  
Unit 1793

WZ

12/22/2008